

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 1041**  
**93RD GENERAL ASSEMBLY**

Reported from the Committee on Crime Prevention and Public Safety April 26, 2006 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 1041 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

5118L.08C

**AN ACT**

To amend chapter 570, RSMo, by adding thereto one new section relating to obtaining, receiving and selling personal health information, with penalty provisions and an effective date.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 570, RSMo, is amended by adding thereto one new section, to be  
2 known as section 570.350, to read as follows:

**570.350. 1. A person commits the crime of knowingly obtaining, receiving, or  
2 selling personal health information without consent if such person:**

**3 (1) Procures, attempts to procure, solicits, or conspires with another to procure the  
4 personal health information of any resident of this state knowing that such information has  
5 been obtained without the consent of the person to whom the personal health information  
6 pertains; or**

**7 (2) By fraudulent, deceptive, or false means:**

**8 (a) Sells, or attempts to sell, personal health information of any resident of this state  
9 without the consent of the person to whom the information pertains; or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(b) Receives personal health information of any resident of this state knowing that such information has been obtained without the consent of the person to whom the information pertains or by fraudulent, deceptive, or false means.

2. The crime of knowingly obtaining, receiving, or selling personal health information without consent is a class D felony if such crime is committed against at least one but not more than five persons. Such crime shall be a class C felony if committed against more than five persons.

3. No provision of this section shall be construed so as to prevent any action by a law enforcement or any governmental agency, or any officer, employee, or agent of such agency, including the Missouri attorney general or any of his or her agents and any county or municipal prosecutor and his or her agents, to obtain, use, or disclose personal health information in connection with the performance of the official duties of the agency, as allowed by state or federal privacy laws.

4. No provision of this section shall be construed to prohibit a health care provider from obtaining, using, disclosing, or permitting access to any personal health information, either directly or indirectly through its agents:

(1) As otherwise authorized or required by state or federal law; or

(2) As directed by said person or his or her legal representative.

5. No provision of this section shall be construed to prevent an insurance company or insurance producer, as defined in section 375.012, RSMo, a workers' compensation carrier, a third-party administrator, or an employer administering or investigating a workers' compensation injury from obtaining, using, disclosing, or permitting access to any personal health information or personal health information record, either directly or indirectly through its agents, as permitted by state laws and regulations governing the conduct of insurance companies or insurance producers with respect to personal information, including personal health information.

6. No provision of this section shall be construed so as to limit conducting any medical research as defined in 45 CFR Part 46.

7. No provision of this section shall be construed to prohibit reporting personal health information where authorized or required by law.

8. As used in this section, the following terms shall mean:

(1) "Personal health information", any identifiable information, in electronic or physical form, regarding the individual's health, medical history, medical treatment, or diagnosis by a health care provider that is:

(a) Created or stored by the healthcare provider or health carrier in the normal course of its business operations; and

46           **(b) Not otherwise available publicly or in the public domain;**  
47           **(2) "Health care provider", any physician, hospital, health maintenance**  
48 **organization, ambulatory surgical center, long-term care facility, including those licensed**  
49 **under chapter 198, RSMo, dentist, registered or licensed practical nurse, optometrist,**  
50 **podiatrist, pharmacist, chiropractor, professional physical therapist, psychologist,**  
51 **physician in training, or any other person or entity that provides health care services under**  
52 **the authority of a license or certificate.**

Section B. Section A of this act shall become effective on January 1, 2007.

✓